

(1) *Child, spouse or surviving spouse.* A person who is eligible for educational assistance and is also eligible for Office of Workers' Compensation Programs benefits, under the Federal Employees' Compensation Act (FECA) must elect which benefit he or she will receive. The election may be made at any time.

(2) *Veteran, spouse and child—surviving spouse and child.* An eligible person may receive educational assistance notwithstanding that the Office of Workers' Compensation Programs benefits, under the Federal Employees' Compensation Act (FECA) are being paid to a veteran, or surviving spouse.

CROSS REFERENCE: *Federal Employees' Compensation.* See § 3.708 of this chapter.

[40 FR 42879, Sept. 17, 1975, as amended at 50 FR 27826, July 8, 1985]

**§ 21.3025 Nonduplication; Federal programs.**

Payment of subsistence allowance and special training allowance is prohibited to an otherwise eligible person—

(a) Who is on active duty and is pursuing a course of education which is being paid for by the Armed Forces (or by the Department of Health and Human Services in the case of the Public Health Service); or

(b) For a unit course or courses which are being paid for under 5 U.S.C. chapter 41.

(Authority: 38 U.S.C. 3681(a))

[61 FR 26108, May 24, 1996]

CLAIMS

**§ 21.3030 Claims.**

A specific claim in the form prescribed by the Secretary must be filed by the spouse, surviving spouse, parent of a child or the child having attained legal majority, or the guardian of an eligible person in order for educational assistance allowance or special restorative training allowance to be paid.

(Authority: 38 U.S.C. 3513)

[43 FR 35290, Aug. 9, 1978]

**§ 21.3031 Informal claims.**

(a) Any communication from a spouse, surviving spouse, parent of a child or the child having attained legal

majority, or the guardian of an eligible person, an authorized representative or a Member of Congress indicating an intent to apply for educational assistance for an eligible person may be considered an informal claim. Upon receipt of an informal claim, if a formal claim has not been filed, an application form will be forwarded to the spouse, surviving spouse, parent of a child or the child having attained legal majority, or the guardian of an eligible person for execution. If received within 1 year after the date it was sent to the spouse, surviving spouse, parent of a child or the child having attained legal majority, or the guardian of an eligible person, it will be considered filed as of the date of receipt of the informal claim.

(Authority: 38 U.S.C. 3513)

(b) The act of enrolling in an approved school does not in itself constitute an informal application.

[31 FR 6771, May 6, 1966, as amended at 43 FR 35290, Aug. 9, 1978]

**§ 21.3032 Time limits.**

(a) *Completion of claim—(1) Failure to furnish requested information.* The Department of Veterans Affairs will consider a claim to be abandoned when the Department of Veterans Affairs requests evidence in connection with a claim, and the parent, guardian or eligible person does not furnish the evidence within 1 year of the request. After the expiration of 1 year, the Department of Veterans Affairs will not take further action unless a new claim is received.

(2) *Failure to complete required counseling.* When an eligible person delays counseling required by § 21.3104 for 12 or more months, for other than a reason beyond his or her control, the Department of Veterans Affairs will consider the claim to be abandoned.

(3) *Reopening a claim.* Where an application has been considered abandoned under paragraph (a)(1) or (2) of this section, the Department of Veterans Affairs will consider any subsequent communication from the parent, guardian or eligible person requesting a program of education to be a new application. The date of application in these cases